Operator: This is Conference # 1784834

Operator: Ms. Lynn Howell, chair of the Programs Board, you may begin.

Lynn Howell: Thank you and welcome today’s American Bar Association GPSolo podcast in our Brown Bag Series. Today -- my name is Lynn Howell, chair of the GPSolo Programs Board and I’m kicking off our program.

The presentation today is Immigration Law and Children, What You Need to Know. The session will go over the basics of immigration law especially as it pertains to children. Angela Williams will discuss the various forms of relief available to children under immigration law, the relationship between immigration law and criminal law and why lawyers practicing criminal law need to be aware of this relationship and the shifting dynamics of the immigration law today.

This session is just a sneak peek of some of the content you will receive at the 2018 YLD & GPSolo Fall Conference where tradition meets innovation and that session is scheduled for October 25th to 27th in Charleston, South Carolina. This is part of the divisions in the group called KIND Children In Need of Defense.

And at this point I'll just tell you a little bit about Angela. She's a solo practitioner who practices immigration and criminal law. And she is fluent in both English and Spanish and she has represented by some criminal and civil matters in courts in both Missouri and Kansas.
At this point I’d like to turn the matter over to Angela and let you know we will have a Q&A period at 45 minutes into the session. So keep your questions ready to go and, Angela, take it away.

Angela Williams: Thank you very much. Like she said my name is Angie Williams; I’m from Kansas City. My practice consists only of representing immigrants in immigration court and family-based immigration and then federal criminal defense. I also advise a lot of criminal defense attorneys about the immigration consequences of criminal activity.

We have a ton of stuff to cover today, so it’s going to be kind of just an overview of some things, so I’ll be moving pretty fast. Save your questions for the end but make sure you write them down so you don’t forget if we move on to something else.

So today we're talking about mainly focusing on children in immigration proceedings. This is very timely because everybody’s probably seen the news about the family separation and children in detention. So a lot of people, particularly lawyers, are very concerned about this and concerned about what you’re -- what they can do to help.

First a little plug for KIND which is Kids In Need of Defense, it’s an amazing national nonprofit. They have locations in seven different cities L.A., Houston, D.C., Baltimore, New York, New Jersey and Boston. But if you live somewhere else, like I do in Kansas City that doesn’t have a KIND office, you can still contact one of the offices and they can help you if you want to get involved or hook you up with a mentor.

It’s an amazing, amazing organization because the first thing that we're going to talk about is criminal -- or is immigration court. So immigration has its own special court which is an administrative agency court. If anybody's ever practiced tax law or work comp or something like that, it’s similar.

It is within the Department of Home -- actually the Department of Justice and the judges are actually employees of the Department of Justice. So there's a structure within the department where you have the first immigration court where there's a judge where they actually hold the trials.
And then there's an appeal where you go to the Board of Immigration Appeals and then after that you may get to the circuits wherever your court sits. So like I’m in Kansas City, we're in the Eighth Circuit, that’s where we go after the Board of Immigration Appeals if I were was going to appeal something to the circuit.

So, immigration court even though it has major consequences, even though people can be in custody for many, many months -- sometimes years -- does not have the presumption that you have the right to a free Attorney like you do in a criminal case. You have the right to have an attorney but that attorney has to be at your own expense or a pro bono attorney. The government will not provide an attorney for you.

And, this is true even if the person in immigration court is five or 10 or 12. So it’s a very difficult thing to be able to deal with in the court, but also for anybody that cares about this type of thing to watch a small child try to defend themselves in court. So we have these wonderful organizations like KIND and there are many across the country that try to help match attorneys -- pro bono attorneys -- with children that are in need of defense in immigration court.

So let’s talk about a little bit of the language related to children in court. A lot of times you will hear the term or the initials UAC that stands for unaccompanied children. Children arrive in the United States in many different ways. Sometimes they arrive with a parent, in which case they are not unaccompanied, sometimes they arrive alone in which case they are.

Once a child arrives in the country they’re assessed by the people that apprehend them, OK. And they’re determined to be a UAC by determining that the person that they entered with is not in fact their parent or that they entered by themselves and that they are under 18. So once they've been apprehended by Border Patrol usually then they're sent to ORR which stands for the Office of Refugee excuse me Resettlement and at that point removal proceedings are initiated.
Now this detention by ORR can be as limited as a couple days until they can find a sponsor that sometimes is a family member or sometimes is like a parent, sometimes it’s a family friend in which case there is a lot more in trying to be a sponsor for that person. But during this whole time deportation proceedings are what’s now called removal proceedings that are initiated by DHS.

So you have this child that gets caught at the border, let’s say, around El Paso, around (Ciudad Juarez), and they get put into an ORR detention facility but that detention facility may be in Phoenix, or it may be in California, and so it’s not necessarily right where they entered.

Then, the removal proceedings are initiated wherever they’re being held with ORR, but then let’s say you find a sponsor, but that sponsor lives in Kansas City. The court then has to be changed from wherever they are in California to Kansas City. Now generally the court makes a motion to change venues in UAC cases but it doesn’t always happen.

So if you are an attorney that has gotten a pro bono case UAC or you’re representing an unaccompanied minor, you need to make sure that's the first thing you need to make sure is where is this person's next hearing? Because like I said they're supposed to be changed to wherever the child is going to be living but sometimes that doesn’t always happen.

So what can you do for a kid that is an unaccompanied minor? First of all the legal provisions for an unaccompanied minor are statutory -- the definition is statutory, and then there's a bunch of memos related to it. So that’s something that you should look at if this is where you are going to be focusing, and at the end we can talk about where that where you might be able to look that.

But the biggest place is the TVPRA which is the Trafficking Victims Protection Reauthorization Act and that has a lot of language about unaccompanied minors, how they should be held and where they should be -- and how they should be treated.

There used to be an agreement, well there is still an agreement called the Flores Settlement related to case law, although this current administration has
just recently announced that they're going to ignore the Flores Settlement and so that is being litigated still. That relates to how long children can be detained and it's a very short period of time.

It also gives specifications on how they can be detained like in what kind of facilities they have to have, custody standards they have to have, medical care, psychologists -- that type of thing. So this is a rapidly changing area of law, but those are the two things to remember; the Flores Settlement and the TVPRA -- those are the two things you need to look.

So the two main ways that the children are helped that are arriving just recently as unaccompanied children are either through asylum or through a special type of visa called a Special Immigrant Juvenile Visa. They also can sometimes be helped with a T visa which is a trafficking victims Visa or a U visa which is a victims of a crime visa as long as there are some conditions attached to that. So those are the four things we're going to mainly talk about today.

So let’s start with asylum. To be an -- to claim asylum -- now this is something that’s confusing sometimes because we hear the term “refugee” and “asylee,” and sometimes they are interchangeable. They're actually two separate issues but you have to be a refugee in order to apply for asylum.

And that’s any person who’s outside any country of the person's nationality and who is unable or unwilling to return and is unable or unwilling to avail him or herself the protection of that country because of past persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. So that’s the definition.

Now in immigration law in the United States we have two types of people that fit that; one is an actual refugee and one is an asylee. The big difference on those is that refugee -- all their processing happens outside of the country. By the time they arrive in the United States they have a refugee visa. They have been screened, they have been interviewed, they have been background-
checked numerous times through a variety of organizations and they arrive in 
the United States legally with their refugee visa.

An asylee on the other hand arrives in the United States some other way. 
With these kids a lot of times they arrive in the United States at the border 
alone or with some other family member or a coyote, and they’re asking to 
able to stay because of something that’s happened in their country.

An asylee can also be someone that’s already here like let’s say a student is 
here in the United States on a student visa and then there's a coup in his or her 
country and now they are afraid to go back because of something that is now 
happening. They’re already here and so that is why they are an asylee as 
opposed to a refugee legally under our law.

In any case, once the child gets to the border like I said there’s two main ways 
and then two sub-ways that they’re a lot of times helped. Asylum is the first 
one. Now asylum is a pretty complicated process and if you can imagine a 
child or even a teenager trying to navigate this him or herself, it’s really -- it’s 
very daunting.

I have nieces and nephews and the oldest is 13 and the youngest is five and 
these are common ages that you see in cases related to children. And the five 
and seven year old they know that they live in the United States but they don't 
have an idea about what other countries are or where they are or anything. 
When I ask if they're afraid of anything they say things like monsters and 
things like that and so it’s very difficult for a child to articulate these claims 
by themselves.

But, asylum generally you have to prove five things. Number one you have to 
prove that someone hurt you, something happened, OK? You were abused, 
you were left on the street with no home, you were sexually assaulted -- 
something happened. Second you have to prove that a person or a group of 
people that did this to you were a person or a group of people that the 
government is unable to or unwilling to control.

Third -- and this is usually the hardest part -- you have to prove that the reason 
that those uncontrollable people did this thing to you is because of your, the
client's, race, religion, nationality, membership in a particular social group or political opinion. It has to be one of those things and you have to tie it back to that particular thing.

Fourth you have to show that you couldn’t have internally relocated within your own country to have solved this problem. And fifth, you have to show that you have a well founded fear of returning, which means if you go back something similar is going to happen, OK. So those are generally the five things that I like to think about when you’re talking about sort of an overview of asylum.

The case law around asylum seekers and around particularly particular social groups is enormous and it's vast. So a particular social group has to be something that you can sort of pick out within the society that you can say OK, this person's a member of this group and this person’s not. So it has to be particular and well defined, socially distinct which means that it's something that’s recognized within the community as something that actually exits.

And it has to be something that you can’t or shouldn’t have to change. So, one of the strongest areas of case law right now related to social group is members of the LGBT community. These are pretty strong cases usually related to these. Cases that are not so strong are victims of gang violence, for example in Central America. Case after case is rejected -- teenage boys that refuse recruitment of gang violence as a social group.

It used to be that domestic violence was a pretty good avenue related to social group in terms of being a woman who was in an abusive relationship or women who are viewed as property, but there has been several recent decisions from the attorney general that have pretty much vacated that as a possibility. It’s still something that if that is something that has happened to your particular case you should so pursue it, but it’s something that is much less readily available than it used to be.

The law on this is pretty complicated, so you could imagine if a child is trying to have to do this by him or herself. A lot of times child claims look like either recruitment as a child soldier or a gang member even though like the
gang member part isn’t as strong of a case, a child forced into prostitution or marriage, female genital mutilation, political activity of the child -- sometimes this happens with teenagers.

I have a case right now where the teenager worked for one of the political parties in his country and was targeted because of that. Political activity of his or her parents, so this could be an imputed political opinion, his or her parents might be politically active and the child might be being persecuted based on -- in order to harm the parents, based on the parents' political activity. Children are often targeted based on their sexual orientation or perceived sexual orientation, also gender identity.

There's also issues that could be vulnerability of street children, sexual assault victims, people that aren't protected within their communities, victims of domestic violence and victims of gang violence. Usually a lot of times children's claim relate to something like this.

So there's not really a statutory requirement or definition of what persecution is. Generally it’s -- and this is from a case from 1996 -- the infliction of harm or suffering by a government or a person the government's unable or unwilling to control to overcome a characteristic of the victim. So there could be threats to life, there could be serious physical harm, there could be psychological harm, forced prostitution, forced child marriage, FGM, rape, confinement, torture.

They need -- what the person has suffered need not have been necessarily life-threatening, but it usually needs to be more than just being like harassing or name calling. Bullying probably isn’t even -- wouldn’t even rise to the level either, most situations in bullying.

The harm has to be from -- now children get some special privileges related to asylum. So, if an adult arrives at the border and says I am afraid to go back to my country, that adult is put into removal proceedings and the adult has only the opportunity to present his or her claim in front of a judge. Unaccompanied children have a little bit different standard and they have a little bit different process.
If they are designated as an unaccompanied minor or even if they were not designated as an unaccompanied minor or should be, you have the opportunity to first file the application with USCIS which is United States Citizen and Immigration Services, excuse me. It is the adjudication wing of immigration.

So the children will have the opportunity to possibly be able to tell their story and win their case not in a trial setting but in an interview setting. Adults can apply affirmatively as well but only if they're not in removal proceedings.

So the example I gave earlier about the person who's here as a student and then something happens in his or her country, that person could apply affirmatively, which means they just mail an application into the asylum office explaining what their claims are and then at some point they’ll have an interview where they can state their claims.

Then if they get denied at that interview, they get referred to deportation proceedings where then they have a second chance to present their case. UACs are treated in the same way. They first have their interview with an asylum officer in an office, rather than in a trial setting. These adjudicators are supposed to be trained to deal with children and to try to help elicit testimony from the child from a child’s point of view.

Age can be a really critical factor in determining these claims. The harm that the child suffered may be less than maybe what an adult might suffer, but to a child it might be more traumatic than the same action would be to an adult. So, it’s important when you're representing these clients to try to frame their case in the best way, not only to tell their story but so that they can tell their story, too.

Working with children is very difficult. My advice if it’s something that’s available in your area is to enlist the help of some -- of a psychologist or some sort of therapist in order to help the child deal with trauma. They’re going to have to be able articulate what happened to them at least a little bit to be able to talk at an interview related to their case and if they have to go to trial, to be able to testify. Excuse me.
So I think working with a psychologist is really good because then it gives a child that safe place to be able to deal with some of the things that happened. Also you -- in these applications either before the judge or in front of an adjudicator you have the opportunity to submit evidence. That is your opportunity to help the child speak. You can help with the written statement if the child’s too young for a written statement or doesn’t have the school ability.

Many of my clients barely can read and write because of where they're from, but they can draw. I have to tell you there are some really powerful drawings that I have submitted as evidence related to my child’s -- my children’s cases, because they're more able to express themselves through their drawing than they are through their writing.

So the child first gets the interview at USCIS. If they get denied then they get referred back to the judge and then you present their case like you would an adult through a trial. If they win then they don’t have to go through the trial part, which is very traumatic for adult and children.

So, one thing that’s very important with kids is interviewing techniques. You might be able to treat teenagers more like you treat adults but traumatized teenagers a lot of times are mentally younger than they seem. So it’s very important to brush up on the skills related to interviewing victims but also interviewing young victims to be able to help facilitate a feeling of trust and safety.

I could spend hours talking about asylum but we only have 45 minutes today so I want to move on to the other examples. The next one I want to talk about is something called a Special Immigrant Juvenile Visa Status and people usually just call this SIJS. So this type of visa is awesome but it requires three separate steps.

Number one, it requires the child to get some sort of predicate order from the state court or the juvenile court wherever they are living. So for example let's say a kid comes up here alone, they get released to their aunt who lives in Kansas City. This aunt can go to a judge in Kansas City and get an order for
guardianship that says this child -- that the aunt in Kansas City is now the guardian.

This order must allege a couple of things. It must allege that the child was either abandoned, abused or neglected or some other similar basis and -- there -- by one or more of their parents; that they are no longer able to live safely in their home country and that it’s in the best interest of the child to live in the United States with whoever's going to be the guardian -- in this situation the aunt.

So rather than, I mean not just like a regular guardianship that just says Aunt Maria has now guardianship, they also need to make these factual findings that the child was abandoned, abused and neglected or some other basis. Some other basis might be both the parents are dead those might be some other basis and that it’s not in their best interest to return to their country of origin, it is in their best interest to stay in the United States.

But you have to allege that reunification with one or both of their parents is not viable. Now you can do an SIJS with a single parent although those are getting harder and harder to do. But let’s say for example the kid is up here with dad but dad was never on the birth certificate, dad can do a paternity action and the custody can be given to dad on the basis of the paternity action.

It can also be done in a divorce; let’s say mom or dad is up here but the other one is missing or in the other country. You can get a divorce from that person and then custody can be granted through the divorce.

You could also -- if the parent is known, you might be able to do an action for child support for that parent should that parent ever come to the United States. Those are all possible ways to have a one parent SIJS.

So once you have that predicate order, then you can fill up the actual application, it is the I-360. If the child is not in deportation proceedings then you can file the I-360 together with the application to adjust status for permanent residency if that date is current and there’s a visa bulletin that you can look in that.
If they’re not current then you just file the 360, this is the same for if you are in deportation court you file the application I-360. And then at some point that application is either approved or denied, we hope that it’s approved. If it gets approved, then once the visa bulletin becomes current which means the date for actually moving to step two becomes current, you can file directly for an application for permanent residency.

So this skips the whole asylum part, this skips the whole court part. If you were in removal proceedings you can file this and hope -- well, a year ago I would have said then ask for the judge to administratively close the case, but this administration has decided that judges are no longer allowed to administratively close or terminate cases and it’s getting harder and harder to continue a case.

So, how you deal with this in immigration court is becoming very site specific. For example in Kansas City there's one judge that has just like a call up docket where you don’t have to go, but 30 days prior to the call up docket the attorney has to submit proof that the case is still pending and what’s going on with it then it's automatically continued. Another judge requires that you actually show up for all the continuances.

But the judges are getting a lot of flak for continuing cases, so it’s hard to tell where this is going to go. So if you have a case like this where there is court, the best advice would be to get in touch with the local Bar there that practices in front of those judges to see if what those judges like to do or how they handle this.

So the fantastic thing about SIJS is that you go right from this application to permanent residency and then in five years the person can become a citizen. Now one thing related to SIJS that is very important to note is that if the child becomes a permanent resident based on SIJS, they will never be able to petition for their parents, OK?

So I mentioned earlier that a one parent situation can do an SIJS application; that is only a case that is beneficial for the child. This is one of the areas that where you might have a conflict and you might advise the parent that they
want to seek their own counsel to make sure that this is the right thing to be doing.

Because, once the child becomes a citizen, most citizens are eligible to apply for their parents. This does not allow them to apply for their parents, even for the parent that isn't the one that's been abandoning or abusive to them or neglectful to them.

It terminates -- it doesn't terminate the parental child relationship legally but it does for immigration purposes. So that's something that needs to be addressed and that the child needs to understand and that the guardian needs to understand and that the parents need to understand if they're in the picture. So that's one of the fantastic things.

Another fantastic thing is that it forgives a lot of criminal things that are difficult to forgive in other ways. If this were just a regular petition for like a husband and wife, there are some criminal things that you can't get over but an SIJS application has a much more liberal standard for forgiving juvenile delinquency. This is especially important for angry teenagers who are up here and may be having some issues adjusting to their life in the United States. So that's something to consider.

The last two that I want to talk about in our remaining 15 minutes are U visa and a T visa. Now a U visa is a non-immigrant visa that's good for four years and then after the four years are up, actually before the end of the four years, the person is allowed to apply for permanent residency. Usually during the third year -- at the beginning of the third year, then they apply for permanent residency then and then hopefully by the end of the time they will be permanent residents.

A U visa is for victims of crimes and victims of crimes that have been helpful to the prosecution of the crime already and are continuing to remain helpful. So, this is a very important thing because the cooperation with law enforcement must be verified and certified. So there's this part of the application that goes with it, it's form 918B that the local police or prosecutor
or judge has to sign certifying that the person was the victim of a crime and is helpful.

Now, U visas are fantastic and they also suck right now too because there's not many of them authorized. And, so they're behind four to five years right now. So it doesn't help you immediately but it is something that you can get on file. Now in this particular case -- a U visa -- you can be the main person in a U visa, the main beneficiary in a U visa if you are the victim of a crime and it's got to be a fairly serious crime.

There's a list on the application of the types of crime. And, we're talking like attempted murder, sexual assault, child abuse, human trafficking, those types of regular assault, aggravated assault. We're talking pretty serious crimes that happen to the person rather as opposed to like property crimes. So you can be a direct victim or a primary beneficiary if you were the direct victim.

If you are a child you can also under the age of 21 you can also include as what are called “derivatives” -- siblings that are also under 21 and your parents. Parents can also be the main beneficiary for a minor child, if, for example, the parents have been have helped the child help the police.

Sometimes this is a strategic decision, particularly if the minor child is a teenager that's having some other problems if mom or dad is the primary victim then if the teenager continues to have legal problems it doesn't impact the rest of the family's visa status or prospects to get the U type of visa.

So what you have to do is first you have to have been a victim of a crime. Now this isn't something that generally happens immediately upon arrival in the United States but sometimes these cases take years. Right now cases in immigration court are backed up at least two years, in some cases three.

So that's a long time for a child to be here in the United States hanging around doing things and have the possibility of being the victim of a crime during that time. So this is something that might appear later.

The key element of the U visa is the certification from law enforcement and that can be either police or some sort of investigative type agency. It could be
college police or campus police, it could be the Department of Labor. There's a whole different bunch of different options related to certifications.

It has to be some kind of investigatory body or it can be a prosecutor or it can be a judge. All these people can sign off on a certification. If you cannot get someone to sign off on the certification you cannot apply for a U, period. It is a mandatory part of the application.

The other thing is that the crime must have been in the United States, so something that happened in your own country unfortunately cannot qualify, and the victim must have suffered some sort of substantial physical or mental harm as a result of the criminal activity. Now you can prove that in a number of ways.

You can prove that by a personal statement which there needs to be; you can prove that by psychological reports, of course if there's physical injury you can get hospital or doctor records related to that.

I had a client that was in a bar fight and beer bottle got hit across his face and it knocked out all his front teeth, and so sent in substantial -- a whole bunch of medical records and dental records showing all the physical pain and suffering that he went through.

Some qualifying criminal activities like I said, it needs to be something pretty serious, abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, felonious assault. There's a whole list like I said on the application -- which the application is form I-918 there's a whole list of these. So, all of -- any of these things or a similar basis in state law that is similar to the federal law related to that.

Like I said these cases are taking an extraordinary amount of time right now, but the other good thing about this case is that you can still apply -- even if you had to leave the country you can still apply for this in your own country. So it might be a way to come back in the country, if for some reason the case can't be continued in immigration court or for some reason the person has to leave the country. It doesn't mean that the case is over. It can be used like I said to (inaudible) for a process back in.
The visa's good for four years. During that time the person has the ability to live here legally and work. They cannot travel outside of the country, and this is a big deal because people are finally legal and they want to go home for the first time in a while.

It's very difficult to be able to travel and then come back, because there's no ability to apply for a travel permit first. You just have to leave and hope that you get it once you're out of the country. It's extremely risky and I just advise my clients that they just can't travel.

And then like I said at the end of the third year or the beginning of the third year you have the ability to apply for permanent residency. This ability is for anybody that is a U visa holder or one of the derivatives, and also after acquired spouses or children.

I don't know why a child wouldn't have been in the United States but if there was some reason that you didn't apply for a child of yours when you first applied you can apply for them later or if you later got married and now have a spouse you can apply for that person as well, sometimes.

We have like five minutes left so I quickly want to talk about T visas. I could do hours about T visas as well. But, T visas are related to trafficking. And this is especially important for children because many of them have in fact been trafficked into the United States.

And not just the traffic that would be what's called “a crime against the border,” like just illegally sneaking in, but trafficked for the purpose of human trafficking definition. If they have been sexually assaulted or physically abused in some way that may also qualify for them for a T visa.

They also might qualify for a T visa, if once they got here they experienced some sort of form of trafficking like they were forced to work without pay or they were forced to perform sexual acts or something like that.

The T visa is for either sex trafficking victims or labor trafficking victims by force, fraud or coercion. Sometimes that involves involuntary servitude,
sometimes it involves forcing to work without pay under the threat of being able to report them to immigration or do something to their family at home or something like that.

You see this a lot in nannies or maids, in the sweat shops, there's a lot of janitorial jobs, construction, farm and landscaping, hotels, restaurants, drug trafficking obviously, panhandle, street prostitution, spas, escort service, massage parlors. All of these have huge potentials for possibility of a trafficking visa. Similarly children that are trafficked especially alone up at the border may have the ability to have a T visa.

Now like a U visa you have to document that you worked with law enforcement but you -- or that you reported it to law enforcement but you don't need a certification like you do with U's. It covers a broad range of things related to specifically sexual trafficking or labor trafficking. There's a waiver similar to a U visa for criminal activities and T visas sometimes qualify for a few more benefits than U visas do during the time that they hold the T visa.

One other thing that I forgot to mention and I just want to briefly mention is the Violence Against Women Act. This is something that is used much less frequently because you have to have been in an abusive relationship with a U.S. citizen or permanent resident.

So, for children if they get to the United States and they have let's say a permanent resident parent that's living here and then that permanent resident parent is abusive to him or her, it's possible to apply for, under the Violence Against Women Act, related to having been the abusive or the abused victim child of a permanent resident or a U.S. citizen.

Similarly if they come up let's say they come up with mom and mom is married to a U.S. citizen and then that U.S. citizen is abusive to mum and the child they may qualify as well as a derivative of mom's petition. So that's another thing to keep in your mind related to your screening process. It is more difficult to find because you have to have a permanent resident or U.S.
citizen parent, spouse or child is the one being abused or that is the abuser, sorry. So that makes it a little bit more specific.

If they come up here and then are like living with their aunt or whatever and the aunt is abusive, that is not a VAWA case, same thing if they come up and mom is married to another undocumented person who is being abusive, that is not going to be a VAWA case either.

They might have the ability to a petition still for a T visa or a U visa but VAWA is not going to be available if the abuser is not a legal permanent resident or a U.S. citizen and there's not a specific relationship requirement. So that is just something to keep in mind, it doesn't happen nearly as often, but it is something that does for sure happen.

So these are the most important ways that you need to be thinking about when you are representing children. You need to be able to brush up on your interviewing skills and skills related to victims because working with victims is a very specific type of thing. It's very -- it's difficult, sometimes it takes a very long time to build these relationships. It takes even longer when you have a child who is also scared and may be here in the country alone.

So, thank you for listening today. I think we're about ready for questions.

Lynn Howell: Yes we are. Angela, you have got that timer down (really well). Operator, could you give us the instructions for -- to ask a question?

Operator: Sure. At this time I would like to remind everyone in order to ask a question press star then the number one on your telephone keypad. Again that's star then the number one on your telephone keypad. We'll pause for just a moment to compile the Q&A roster.

Lynn Howell: All right. Angela, while we're waiting, what is the hardest one you've ever seen as far as the most difficult case with children?

Angela Williams: It's always very difficult with children when -- the hardest case that I have had specifically is a case where there -- we have a teenager, a young teenager like maybe 15 I think, up here not with his parents living in a family situation
where the family situation is with an aunt and uncle, the aunt and uncle also have some severe problems going on with them.

So the situation that the kid is living with, it's their -- it's his family so they took him in but it's not an ideal situation for the kid. And the kid is kind of now being bounced around from family member to family member all over the country to try to find a place for him to be able to live.

And, it's very difficult because no one sought help for this kid immediately. Like it was a year or more before they even started talking to someone. And the family has no money and it's very it's just it's really hard.

And this kid's a sweet kid and he's trying really hard, and it's hard to even get what he suffered out because by the time we built up a relationship now he's moved somewhere else, and now I'm trying to find a lawyer for him elsewhere because he doesn't have the money to come back and forth to Kansas City for his hearing.

Those are probably the worst I think, when it's the kid's really trying and it's really not the fault of the family either, they just have their own big problems to deal with. It just makes it for a very hard situation, it's very frustrating.

Lynn Howell: So is it easier from like the programs to get lawyers wanting to help the cute little kids versus like the teenagers?

Angela Williams: Yes, I think that's probably true. I mean you probably see that in adoption, too -- the babies get adopted first. It's devastating to go into court and see a five year old sitting there alone.

A 16 year old looks a little bit more capable of handling themselves, but they are just as needy and traumatized as any child. And also realistically, at a little bit more risk, because they are old enough that they could decide not to go to school and go to work and get involved in bad situations and have a little bit more freedom than like that five year old does to make bad decisions or get involved in things that are going to further help them or not help them later on in their immigration process.
It's really hard. I like working with teenagers actually better than I do smaller children.

Lynn Howell: Operator, do we have any calls yet?

Operator: Again if you would like to ask a question, you may press star then the number one on your telephone keypad.

Lynn Howell: OK. Now let's say someone heard today's call and they were like gee, this is maybe something I want to volunteer for, how would you go about volunteering?

Angela Williams: OK. So there's a number of organizations. KIND I've mentioned several times is Kids in Need of Defense they have a kind of a partnership with the American Bar Association, we do trainings all the time for KIND. They also have a Web Site and a Facebook page. I would highly recommend calling and talking to them.

They are fantastic because not only will they give you cases of people in your area but they'll also give you help. It's not like they'll just throw this case on you and be like, “Hey, good luck with that.” They'll give you support, they'll hook you up with mentors and so it's a really fantastic organization.

There are a number of different organizations as well. Another one that's kind of regional right now is called the Center for Excellence. It's related -- a man named Stephen Manning built this sort of computer software to help with a family detention issue that was happening starting a number of years ago, in 2014.

And that project has spring boarded into permanent volunteer lawyers at the family detention centers helping screen and helping people get through the process. All of those detention centers need help. You don't have to know anything about immigration, you just have to be willing to go and show up at the jail.

You contact AILA which is the American Immigration Lawyers Association. They have two separate projects, one's called the CARA Pro Bono Project and
then there's another one at Karnes Detention Center in (Kansas) -- in Texas. Then they also -- the Innovation Law Group and the Center of Excellence also has a program in Stewart Detention Center in Georgia, I think, and then there's one in the southwest as well.

And you can go for a week and volunteer and help kind of get the basic help, assess people for their -- whether or not they have claims. Those are basically -- those are more geared towards adults and family-based detention. It's a little harder to deal with kids because there's a lot of very strict regulations related on who has access to the kids. So there's less groups going in and assessing the children than there are for the adults and for the people in family detention but there's still a huge need.

The other thing is -- is that there's a lot of regional places. I know there are some places in New York that do this Human Rights Now is one of them, there's an Immigrant Justice Center on Yonkers that does one, there's one up in upstate New York at Buffalo. There's places all over the country.

We have one in Kansas City called The Clinic that does pro bono and low bono defense and we also have a Center of Excellence which is -- again it's like a massive multi-person representation.

So you are the attorney that's actually -- has contact with the client but you can contact the Center of Excellence for ideas on strategies, on briefs, on experts opinions, various country conditions materials. And so you're not kind of just out there all alone.

The other thing is that if you live in an area where there's an AILA chapter which again is the American Immigration Lawyers Association, you might want to get involved in that to see if there's some kind of local pro bono or something happening in your area. There may very well be.

Lynn Howell: OK. Now, Operator, have we gotten any calls?

Operator: We have no questions at this time, you may continue.
Lynn Howell: All right. So, found ways to volunteer. Now one of the things that you were talking about all the different types of visas and crimes and things like that, so how can you sort out what's the best route? If you get a child client, how do you sort -- I mean there's different visas, different things -- which one's the easiest or most likely to win or you know?

Angela Williams: Yes, they're all very -- this is such a lawyer answer -- they're all very case specific. Up until recently I would have said SIJS is the absolute best way to do it but now there's a wait on that.

And with the new decisions from this attorney general that says that are making it harder and harder for judges to continue cases, those are getting much more difficult because in order to do an SIJS you have one now that maybe you apply for the 360, and whereas five years ago the 360 would have been approved and those are supposed to be approved within 180 days and we have them now taking over a year to even be approved, just the first step.

And then before because there was so few people using this benefit you could almost immediately apply for residency out of that, but now you're having to wait several years after you get approved from the first step to apply for the second step. It's making it much more harder to continue cases for longer and longer. So, that's problematic.

Now if you have a child that is not reunited with their parents, that is not from Central America, you have a better chance, because those categories are less backed up. But the majority of cases that at least we're seeing in the Midwest are from Honduras, El Salvador and Guatemala with a smattering of Mexico here and there. But Mexico's even better than the other three right now in terms of wait time. So those are that's in some situations is the best one.

Trafficking visas, T visas are probably I would say the second best if you have the facts to fit it, because those cases are only taking eight to 12 months right now to process and they don't require the help of law enforcement in order to be able to do it.
After that it would say it's sort of a tossup between asylum and U visas. While U visas have the ability to give you permanent residency, they are five or six or seven years behind right now so it doesn't help anything right now.

Asylum is always hard. Even cases that you're like this is exactly what asylum case should be are still hard, particularly in this climate. We are in probably the -- well I've been practicing law since 2002 and immigration primarily since 2006. And this has been the worst 18 months ever -- that I've ever been practicing for the whole time I've been practicing.

There has been significant changes in the law, specifically by the attorney general specifically designed to make it more difficult for people who are seeking refuge in this country to seek refuge in this country.

There's a very specific and coordinated attack on both illegal and legal immigrants and it's making it extremely difficult for even the cases that like I said five years ago I would have been like oh, this is a case that I feel 80 percent, 90 percent sure I'm going to win, those cases now I'm -- it's like, who knows?

Lynn Howell: And so it's just the change in the law that is the hardest thing for you to navigate now?

Angela Williams: Right now it's the change in the law and the speed in which it's changing. It's not stable. In the last six months there's been probably 10 major changes in the law that not when I say law I don't mean like Congress went and voted change in the law.

What I mean is Jeff Sessions took a case that was a precedent case in the -- for immigration from the Board of Immigration Appeals and himself overruled it and wrote a new law, essentially, or a new way to interpret the law. And he's done this in like seven cases in the last six months.

Aside with giving judges production quotas and treating judges like they are just employees of the Department of Justice rather than independent jurists, it's been a very difficult time if you're an immigrant in immigration court, especially.
But, there's been changes in other parts of immigration as well. They're making more things have interviews that didn't before have interviews. They are -- instead of looking for cases that they should approve they're looking for reasons to not approve cases rather than the other way around. So it's just -- it's become a very challenging area to practice in, recently.

Lynn Howell: All right. Well, we're at our bewitching hour.

Angela Williams: OK.

Lynn Howell: Operator, did we get any questions at all?

Operator: Still no questions at this time, you may continue.

Lynn Howell: All right. That's OK, not unusual. Angela, I'd like to thank you today for sharing your knowledge with us. It’s …

Angela Williams: No problem.

Lynn Howell: And I'd like to thank all of our listeners whether you're listening now or in the future. Our current listeners will receive an e-mail in a few days with a direct link to the recording of this podcast as well as the extensive library of our past topics.

You can learn more about KIND and other innovative programs at the 2018 YLD & GPSolo Fall Conference which is scheduled from October 25th to 27th in Charleston, South Carolina.

For more information about this meeting and our next podcast can be found our Web Site. We hope you have a great day and thank you for calling and joining us this afternoon. Good day.

Angela Williams: Thanks.

Operator: This concludes today's conference call. Thank you,, all for joining. You may now disconnect.
END